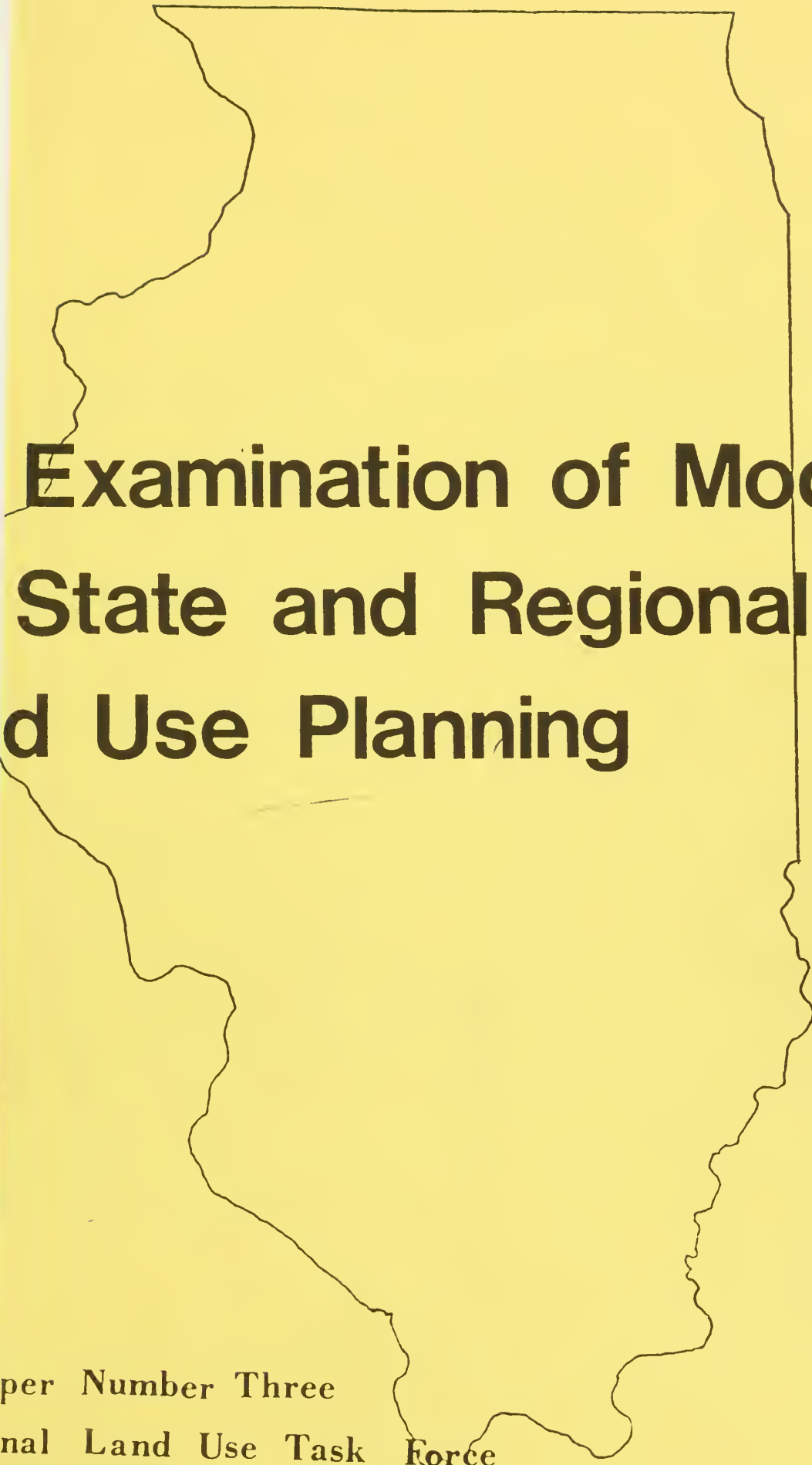


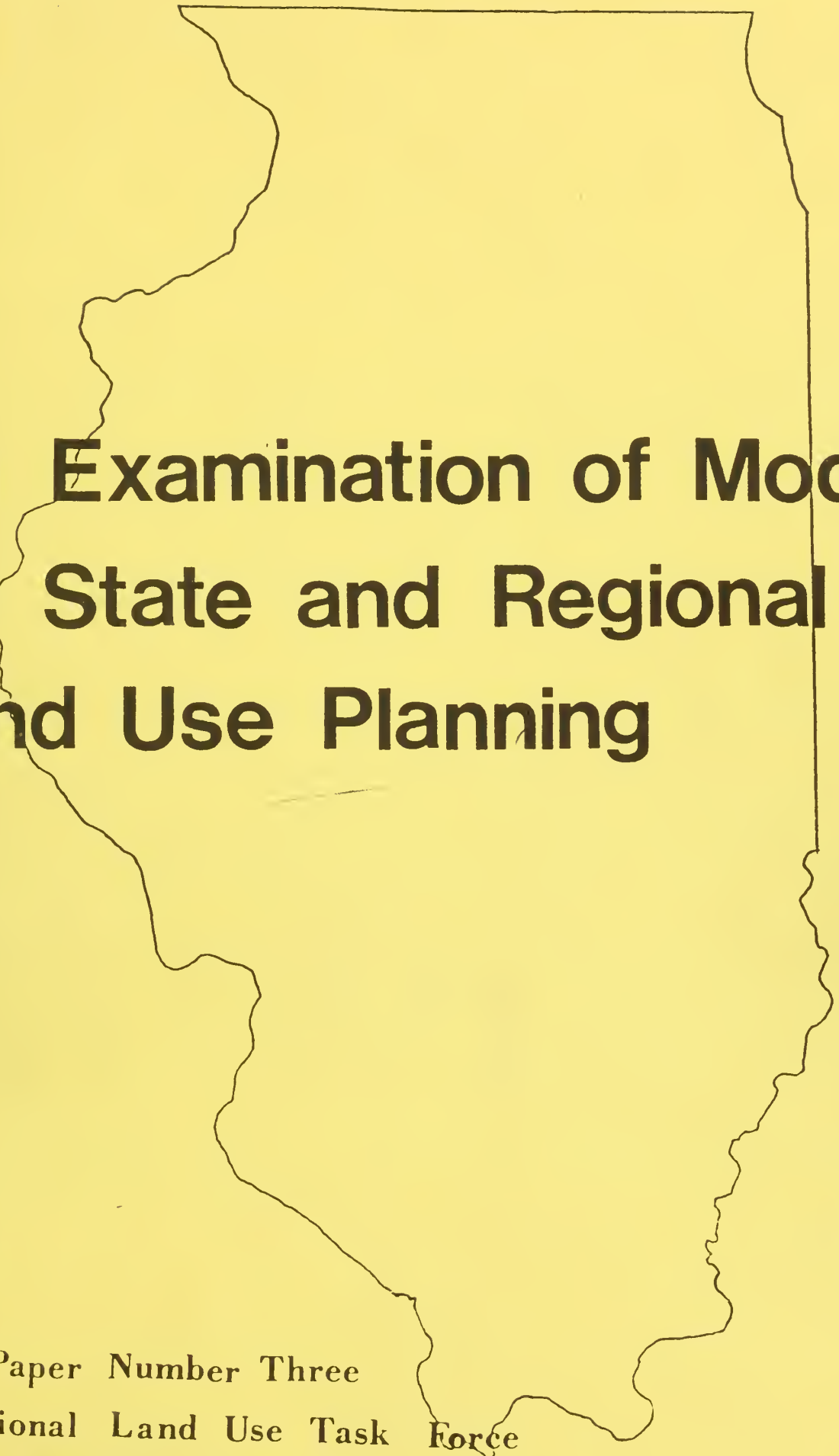
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Examination of Models State and Regional Land Use Planning

**Working Paper Number Three
State-Regional Land Use Task Force
University of Illinois - Department of Urban & Regional Planning**

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An Examination of Models for State and Regional Land Use Planning

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AN EXAMINATION OF MODELS
for
STATE AND REGIONAL LAND USE PLANNING

Concerned groups of professionals are developing various procedural models for state land use planning and management. This paper describes and analyzes two of these models -- the Advisory Commission on Intergovernmental Relations' proposal for Substate Regionalism and the Model Land Development Code as formulated by the American Law Institute. A brief discussion of the scope and content of each approach is given and a set of criteria for evaluating an effective land management program is applied to each model. Based on the limitations and advantages of these approaches, a hybrid model is presented as an alternative approach to structuring a state land use planning program in Illinois.

This working paper is one of three reports produced by the 1973 Workshop on State-Regional Land Use Planning in the Department of Urban and Regional Planning at the University of Illinois at Urbana. Directors of the workshop were Professors Louis B. Wetmore and Albert Z. Guttenberg.


Each of these reports opens with a suggested framework for state-regional land use planning and management which was devised to provide a context for the three working papers. The framework concept was formulated by Charles Cumby and Karen Yonkers and has been developed for use in these publications by Eugene Goldfarb and Keith Heron.

The basic research and analysis for this working paper was the responsibility of task force member Jill Tiedt. This publication has been developed and edited from the December 1973 draft also by Ms. Tiedt. Professors Clyde W. Forrest, Eric C. Freund, Scott Keyes and task force member Eugene Goldfarb merit grateful acknowledgment for their advice and assistance in assembling these materials.

The members of the workshop wish to thank the Bureau of the Budget and the Department of Local Government Affairs of the State of Illinois for their joint sponsorship of this project.

Working Paper Number Three

March 1974



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I. A SUGGESTED FRAMEWORK FOR STATE-REGIONAL LAND USE PLANNING AND MANAGEMENT

The central questions confronting the state in the development of a land use planning and management process concern the procedure and scope of such an inquiry. The papers collected here represent the culmination of a workshop designed to examine some of these questions and place them in an ordered relation to each other to participants in the planning process.

The study was designed to focus on the role of the substate region within the total state land use planning and management procedure. Initially, the study was to survey the development issues in three Illinois substate regions in order to get a handle on the actual land use related issues facing Illinois and the degree of variation among various regions of the state.¹

As the study developed it was expanded to include an issue analysis method which would allocate functions of government to different levels of jurisdiction for each particular issue under scrutiny.² This second stage of the study clarified the posture of the substate region in relation to other levels of concern (national, state, and local) and illustrated the range of functions to be allocated among levels in meeting the demands of particular problems.

Through published materials and the sessions of the National Planning Conference at Atlanta, workshop participants began to examine land use legislation in various states and current pieces of proposed legislation (Jackson and Humphrey Bills). This search eventually crystallized in an examination of two models which were felt to best represent nodal points of the national dialogue — the ALI (American Law Institute) and ACIR (Advisory Commission in Intergovernmental Relations) models. These were examined and found to be complementary models representing different facets of a total land use planning and management program.³

¹See Working Paper One

²See Working Paper Two

³See Working Paper Three

A. STAGE ONE - PERCEPTION OF ISSUES

The initial exercise of the workshop, a reconnaissance of three Illinois sub-state regions, was designed to elicit an identification of major and significant issues from each of the three planning agencies.⁴ These issues were not limited to land use concerns but included all those issues identified as significant in each of the three case study regions. The criteria for elevating an issue to major dimensions were either its urgency or dominance. A significant issue became major if placed within a time frame relative to a crisis situation -- urgency. An issue was also considered major when it held the key to the resolution of other issues -- dominance.

The survey results were then subjected to a systematic analysis by the workshop. First the issues were classified as either instrumental or substantive; a dichotomy which is best conceptualized as relating either to ends (substantive) or means (instrumental). Instrumental issues are concerned with methods of implementation whereas substantive issues are direct public concerns. The substantive issues were then further sorted onto three points of a conserve - develop continuum. (See Figure 1).

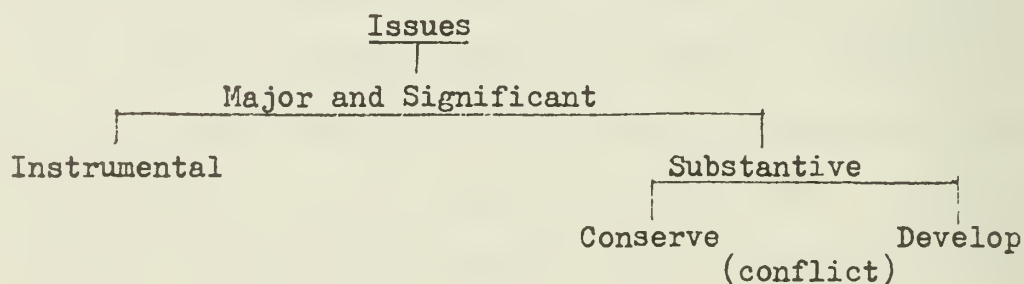


FIGURE 1: ISSUE ANALYSIS

⁴ See Working Paper One and Appendices

Conservation is defined as being primarily concerned with the efficient allocation of scarce resources and the preservation of areas of critical environmental concern. Emphasis is placed on inventorying, monitoring, and evaluation of land use changes for their resource impact. If such concerns are dominant, then state-wide incentives and regulations appear to be the main instruments for policy implementation.

By contrast, development refers to an emphasis on growth and the accommodation of new population and economic activity. Development issues tend to be addressed by formulating goals, objectives and policies to guide development in terms of growth and distribution patterns. Because conservation demands a wider scope of concern, state initiative and use of authority is implied; while the competitive nature of attracting growth and the spatial limits on distributing growth places a development approach within a local or regional context. Local initiative and management controls are central to resolution of development issues.

The investigations indicate that the three regions studied are concerned with both conservation and development issues in varying degrees depending upon each region's unique situation. Thus to meet the region's full range of concerns, a program which responds to both conservation and developmental issues should be established.

STAGE TWO - DISTRIBUTION OF AUTHORITY

Stage Two provides a technique for state analysis of each specific issue as a basis for allocating functions in a state land use planning and management program. The technique was designed to address the crucial question posed in developing a policy for dealing with any land use issue: namely, at what level should each function of the planning and development process take place?

At first, eight functions of the planning and development process were identified:

- | | |
|--|--------------------------------|
| 1. data gathering | 5. determination of strategies |
| 2. data analysis | 6. implementation |
| 3. objective and goal setting | 7. monitoring |
| 4. determination of plans and policies | 8. evaluation |

The workshop then chose to concentrate on the four functions which possess authority/decision-making elements:

- | | |
|--|--------------------------------|
| 3. objective and goal setting | 5. determination of strategies |
| 4. determination of plans and policies | 6. implementation |
| | -- persuasion |
| | -- subsidy incentive |
| | -- regulation |
| | -- public ownership |

The other four functions (data gathering, data analysis, monitoring, and evaluation) were not studied because their assignment is assumed to be largely on the basis of efficiency criteria.

The technique examines each function separately and assigns it to a specific level of government. The goal and objective setting function is allocated to the level which possesses the basic concern for the issues being analyzed. Implementation is likewise assigned to the level which possesses the authority to administer the implementation instrument, either through constitutional assignment or delegation. The determination of strategies, and of plans and policies, is assigned for each issue on the basis of three criteria for effectiveness.⁵

⁵ See Working Paper Two and Appendices

FIGURE 2: THE COMPARATIVE AUTHORITY MATRIX

PLANNING AND MANAGEMENT FUNCTIONS	PRESERVATION OF AGRICULTURAL LAND	FLOODPLAIN MANAGEMENT	EXPANSION OF LOW COST HOUSING
1. DATA GATHERING #			
2. ANALYSIS #			
3. GOAL & OBJECTIVE SETTING *	NATIONAL	NATIONAL	NATIONAL
4. DETERMINING PLANS & POLICIES	STATE	STATE	REGION
5. DETERMINING STRATEGIES	REGION	REGION	STATE
6. IMPLEMENTATION PROCESS **	STATE	STATE NATIONAL	STATE
a. Persuasion	REGION	REGION	REGION
b. Regulation	COUNTY	REGION	LOCAL(STATE)
c. Subsidy	STATE	NATIONAL	NATIONAL
d. Public Owner- ship	STATE	STATE	STATE
7. MONITORING #			
8. EVALUATION #			

These non-authority functions should be assigned to the level at which they can be performed most efficiently and effectively.

* Assigned to the level with Basic Concern and Territorial Scope and therefore most appropriate for setting goals and objectives.

** Assigned to the level with Constitutional Authority to use required powers or to assign responsibility for implementation to another level.

Three land use issues in Illinois -- preservation of agricultural land, flood plain management, and expansion of low cost housing -- were selected to test this model. The distribution of the authority functions among national, state, regional, and local governments for each of these issues is presented in Figure 2 (the Authority Matrix). In these limited but illustrative cases, the national government was uniformly assigned the authority function of goal and objective setting because of the nation-wide concern for resolving these issues. The state assumed the function of plan and policy determination and the region that of determining strategies for the two environmental issues, whereas for the housing issue the roles were reversed, with the state determining strategies after the region had set forth plans and policies.

The state government was identified as the level with vested authority for regulation and public ownership for all issues. The state, however, delegates authority to other levels except where it feels these authority functions would not be managed appropriately at another level. Basic operation of regulations was assigned to localities, except for state overview and over-ride for matters of state concern. Federal funds are the major base for subsidies which are at the center of incentive strategies. Regions were perceived as in the best position to use the power of persuasion under A-95 and other review procedures.

The workshop was particularly concerned with how the role of the region might vary as a function of differing county capabilities and sets of issues in various regions. Another matrix was established to clarify this question (see Figure 3 -- Region-County Matrix). The Region-County Matrix tests the delegation of authority functions among the three substate regions surveyed in Paper One for each issue analyzed in Paper Two. Regional variation was observed but was not a significant factor for the limited number of programs examined in this study. A more significant number of variations could be expected if a wider range of issues and substate regions were analyzed.

FIGURE 3: THE REGION/COUNTY MATRIX

	GREATER EGYPT		N. I. P. C.		CHAMPAIGN CTY	
	Reg.	County	Reg.	County	Reg.	County
<u>PRESERVATION OF AGRICULTURAL LAND</u>						
4. DETERMINING PLANS & POLICIES						
5. DETERMINING STRATEGIES	X		X		X	
6. IMPLEMENTATION						
a. Persuasion	X		X		X	
b. Regulation		X		X		X
<u>EXPANSION OF LOW COST HOUSING</u>						
4. DETERMINING PLANS & POLICIES	X		X			X
5. DETERMINING STRATEGIES						
6. IMPLEMENTATION						
a. Persuasion	X		X		X	
b. Regulation						
<u>FLOODPLAIN MANAGEMENT</u>						
4. DETERMINING PLANS & POLICIES						
5. DETERMINING STRATEGIES	X		X		X	
6. IMPLEMENTATION						
a. Persuasion	X		X		X	
b. Regulation	X			X	X	

Working Paper Two was centered around the role of the substate region. Two conclusions were stated as hypotheses for future study:

- 1) The region will have a range of functions determined by the three levels of general government -- national, state, and local. A region should have powers as well as responsibility to bring about cooperation in its assigned functions within a state land use planning and management process.
- 2) Neither of the ALI nor ACIR models will be adequate for Illinois; a hybrid of these two should be developed which would utilize one tier of regions throughout the state to represent flexibly state and local interests as appropriate within each region.

THE FRAMEWORK

The most significant result of this study is the manner in which the working papers developed by the various teams of the workshop combine to form a wholistic Framework. This Framework provides a systematic approach to examining and ordering the issues that pervade the design of a land use management program. The structure of this Framework is illustrated in Figure 4. The input from the issue analysis of Working Paper One was used to structure the Framework while the work on the distribution of authority functions in Working Paper Two provided its content.

The first step in ordering the issues derived from the reconnaissance segment of Working Paper One was to sort them into a "substantive - instrumental" dichotomy. In the Framework each of these two categories represents a separate dimension (the horizontal and vertical axes of the diagram). This structure reflects the need for a land use planning system to deal with both issues of substance and operation. The analysis section of Working Paper One also sorted substantive issues along a "conserve - develop continuum." This ordering is reflected in the structure of the diagram's horizontal axis.

FIGURE 4: FRAMEWORK

-----SUBSTANTIVE ISSUES-----

<u>LEVEL OF CONCERN</u>	<u>CONSERVATION ORIENTED</u>	<u>DEVELOPMENT ORIENTED</u>
NATIONAL		NATIONAL POLICIES 3. national goal and objective setting 6. implementation - subsidy
STATE	STATE POLICIES 3. state goal and objective setting <u>standards</u> 4. determination of plans and policies <u>state land development plan</u> 5. determine strategies <u>impact analysis</u> 6. implementation <u>subsidy, environmental veto, public ownership, adjudicary board</u>	6. implementation subsidy review
REGIONAL	AGENT FOR THE STATE 6. implementation persuasion	AGENT FOR LOCALITIES 3. regional goal and objective setting 4. determining plans and policies 5. determining strategies 6. implementation persuasion, subsidy review
COUNTY OR CITY	LOCAL POLICIES 3. local goals and objective setting 4. determine plans and policies 5. determine strategies 6. implementation regulation: <u>development permits, subdivision approval</u>	6. implementation regulation public ownership subsidy

----- ALI MODEL -----

----- ACIR MODEL -----

 INSTRUMENTAL ISSUES
 (allocation of functions among levels)

The ALI and ACIR models were analyzed to illustrate the current range of approaches to state-wide planning.⁶ The ALI model is a thoroughly developed state land use model oriented toward conservation which assigns specific responsibilities and regulatory functions to various levels of government within the state. The ACIR model is a more comprehensive model attempting to develop the strategic role and functions of metropolitan regions and centering regional decision making with local officials. Both of these models are illustrated through the distribution of authority functions defined in Working Paper Two.

The major findings of Working Paper Three are visible from an inspection of Figure 4, namely:

1. The state assumes a dominant role under the ALI code which centers on the conservation issues in land use planning. Growth is to be restrained through the evaluative techniques of impact analysis.
2. Regional and national roles are emphasized in the ACIR model which has a positive orientation toward development balanced with conservation.
3. The national political debate contains advocates of both models as well as combinations thereof. (For example, the Jackson Land Use Bill which emphasizes conservation, and the Humphrey Bill which proposes a comprehensive approach involving both conservation and development).
4. The substate region's role varies with the functions it is called upon to perform. The region is seen as a unit which has the potential of becoming an agent for the state, an agent for national policy, an agent for local interests, or a forum for the interaction of all these interests. The performance of a range of functions for various levels of general government would require a "hybrid" of the ALI, ACIR and other models.

⁶ See Working Paper Three

II. Conceptualizing a State Land Use Planning Program

In recognition of the necessity to resolve conflicting demands for land development while also conserving resources and preserving the environment, many are looking toward state land use planning as the panacea for solving land use ills. Yet, exactly what state land use planning entails and what the compulsory components of effectual land management are is open to debate. The following discussion brings into focus the concept of state land use planning by examining two current approaches -- the Advisory Commission on Intergovernmental Relations' proposal for Substate Regionalism and the Model Land Development Code as formulated by the American Law Institute. As the older and more detailed design, the Model Land Development Code has acquired a substantial number of proponents. It stands as the basis of Florida's state land use planning program, and many of its elements form an integral part of other state approaches. Its moderate position on local governments and reliance on regulatory levers, however, make it difficult to apply this model to states with a strong tradition of local rule. Consequently, the ACIR model is being sought as a viable alternative because of its dollar incentive approach and emphasis on local input at the regional level.

At first blush, it might appear somewhat unusual to compare the two models due to their difference in both scope and content. In contrast to ACIR's emphasis on a system of substate districts for comprehensive planning, programming, and Federal areawide grant-in-aid review, AII

focuses directly on land use regulation. Yet closer inspection seems to indicate that it is this very disparity which allows the two models to function in a complementary relationship and justifies the utility of the model approach. This is particularly important when considering the three principal factors of a state land use planning process: what issues are addressed, at what governmental level are they confronted, and what levers or methods are most useful in issue resolution.

Today the issues of land use have evolved into significantly more than merely zoning and subdivision regulations and the social consequences of spatial and environmental planning have become all too evident. Whereas the ALI model deals with social and economic planning only insofar as they relate to physical planning for land development, the ACIR model is of a broader scope and functions to place the problems of land use within the proper comprehensive perspective. Hence a useful relationship can be established. While one model treats a single functional area in depth, the other serves to link land management into the total planning process, thereby resolving the conflicts of fragmented functional planning.

Similarly, it is beneficial to examine the two models in regard to levels of governmental activity and program implementation methods. The ALI code builds upon land regulation at state and local levels. Conversely, the ACIR model centers around funding incentives and program review at the Federal and regional levels. Might not the two models be conceptually intertwined to give a clearer picture of all

levels of governmental responsibility and a workable planning program consisting of a variety of levers or controls?

It is the objective of this paper to utilize the two prototypes in developing a hybrid model compatible with the political climate and responsive to the social, economic, and environmental needs of Illinois. However, prior to interweaving their beneficial aspects, a brief description of each model is presented in order to familiarize the reader with their approach and intent.

III. Scope and Content of the Models

A. Substate Regionalism -- the ACIR Approach

On June 23, 1973, the Advisory Commission on Intergovernmental Relations adopted its formal stance regarding substate regionalism. As its central thrust, the Commission's recommendations for substate regionalism in the Federal system advocate the creation of Umbrella Multijurisdictional Organizations (UMJO's) to serve in an areawide policy capacity, entrusting the dominance of regional decision-making to representative local officials. Essentially, UMJO's are to operate in a manner similar to the A-95 clearinghouse concept as "rationalizers" of Federal fund transfers to local governmental units. Regions would be established in accordance with socio-economic, political, and physical areal similarities, with a strong emphasis that Federal programs align their boundaries in conformance with those substate regions previously delineated by state governments.

While most of ACIR's materials are still in the draft stage and not yet formerly adopted, a semi-final draft of suggested state legislation, the Statewide Substate Districting Act, was completed in mid-January 1974. As a model law for establishing a comprehensive statewide system of substate districts for regional planning, program operations, and coordination, the act extends the role of the region, designates a more secure funding system, and provides UMJO's the legal status of agencies of local government. In addition to administering Federal areawide grants-in-aid, the regional level is utilized

to confront those problems of growth and development, to solve common problems, to engage in areawide and functional planning, and to coordinate development.

Drawing from these two documents, the ACIR model prescribes responsibilities to successive governmental levels as outlined below:

1. The Federal Role

The Federal government is to enunciate a consistent and comprehensive substate regional policy as the common framework for Federal assistance programs involving substate regional planning, programming, coordination, and/or districting provisions. As necessary requirements for this national policy, legislation must include:

- a. that all grants and programs involving areawide planning operate through UMJOs as designated by the state;
- b. that Federal grant programs comply with substate regional boundaries as designated by the state;
- c. that all areawide Federal grants be consolidated to focus on UMJOs as the basic policy-developing unit in an effort to link comprehensive and functional planning;
- d. that UMJOs shall officially be granted the power to approve or disapprove grant applications emanating from multijurisdictional special districts and from general local governments;

- e. that UMJOs serve as the "referee" in resolving policy inconsistencies with reference to state agency grant applications; and
- f. that where Federal funds are involved, UMJOs are to review and resolve conflicts of major capital facilities projects having an areawide or inter-governmental compact.

2. The State's Role

Placed in a pivotal role, the state is to enact a common framework and an established set of state and local purposes for substate regional planning. State actions and responsibilities include:

- a. a formal procedure for delineating and revising boundaries of substate regions, a delineation by the governor of a single UMJO in each region, and state designation of the UMJO as the A-95 clearing-house (public hearings must be held in each proposed district and both state and local officials are to be consulted);
- b. assisting local officials in preparing and adopting bylaws including the adoption of a membership formula for UMJO boards, with the requirement that state interests be represented, but that at least 60% of the board shall consist of local elected officials of the region;
- c. adoption of a state program of financial assistance to UMJOs equal to $33 \frac{1}{3}$ - 50% of local contributions;

- d. allotment of gubernatorial veto power over an UMJO if inconsistent with an officially adopted state development plan or with officially adopted plans, policies, or actions of another UMJO;
- e. requirement that all state agencies utilize UMJOs for any areawide planning, program operations, coordination, development, and districting activities; and
- f. submission of all state plans and project proposals having a significant effect in a district to its respective UMJO for review, comment, and recommendation.

3. The Regional Role

As granted authority through state enabling legislation, Umbrella Multijurisdictional Organizations are to:

- a. establish a comprehensive planning process and prepare, publish, and annually review a plan for the coordinated development of the district and also a program to implement the policies of the officially adopted comprehensive regional development plan;
- b. coordinate regional planning with the related plans and activities of state agencies and local governments within the district, of adjacent substate districts, and interstate areas, and of Federal departments and agencies;
- c. review Federally assisted projects as required by

- law or regulation to determine whether consistent with the regional plan or implementing policies;
- d. review all local and state major capital facility projects within the district;
 - e. review, comment, and make recommendations on state and local agency plans and projects having a significant impact on the region;
 - f. review proposals for the formulation of special districts, review and approve any of their plans, policies, or projects having an areawide impact;
 - g. serve as or appoint the governing body of any areawide special district operating entirely within its boundaries (except school districts) and review and approve the budgets of these districts;
 - h. cooperate with, and furnish upon request, technical assistance to local planning and development agencies;
 - i. collect, process, and analyze social and economic statistics and publish studies of the district's natural, human, financial and other resources;
 - j. administer interlocal contracts upon the request of local units;
 - k. adopt an annual budget;
 - l. prescribe a discretionary approach to board voting procedures involving a dual system based on population weights for certain issues; and
 - m. prepare an annual report and submit copies to member governmental units, to the governor, and the presiding officers of the legislature.

4. The Local Role

Consistent with ACIR's approach, cities and counties are to adopt policies that:

- a. support the establishment and participation in UMJOs with the governing body of each unit of local government adopting at least one official as its representative;
- b. submit to their UMJO for review, comment, and recommendation its comprehensive plans and any other programs or plans which in the judgment of the UMJO affect or are affected by the provisions of the comprehensive regional development plan;
- c. submit all major capital facility projects to their UMJO for review and resolve all inconsistencies prior to project initiation;
- d. comment on the UMJO budget before adoption;
- e. make financial contributions to their UMJO in accordance with a formula established by the UMJO's governing body as part of the budget; and
- f. respect regional plans and policies as adopted by their respective UMJO as guidelines to their activities.

In summary, the ACIR model aims at coordinating fragmented Federal, state, and local policies at the regional level in accord with a comprehensive regional development plan. Although serving primarily in a review capacity, an UMJO's comments and recommendations must be considered and all conflicts resolved

prior to major governmental project implementation. Since local interests dominate UMJO boards, it is intended that a more unitary, local perspective be achieved in dealing with problems of a regional concern. However, in reality, major decisions regarding the type and extent of problems addressed remain in the form of fund allocation as prescribed by Congressional mandate. Finally, in an effort to promote statewide coordination, ultimate authority rests with the governor's veto power over an UMJO's actions if found inconsistent with state policies or in conflict with another UMJO.

B. A Model Land Development Code as Proposed by the ALI

The American Law Institute is in the process of finalizing a very detailed proposed enabling act primarily designed to replace variations of the Standard State Zoning Enabling Act and the Standard City Planning Enabling Act. While the ACIR approach concentrates its efforts at the regional level, ALI seeks to strengthen the role of the state in land use control through state approval of local development regulations. A statutory framework is established which allows the state legislature great flexibility in delegating responsibility for land use planning and guidance. Certain concerns, however, are primarily seen as the authority of the state. These would include: 1) designation of areas of critical state concern, covering areas of historical, natural resource, or environmental

quality of statewide significance and the use of land within a specified distance of a public facility; 2) developments of state or regional impact; and 3) large scale developments including new communities. Since ALI's approach is specifically concerned with land use planning, it is the more procedurally detailed of the two models. Its scope is limited to actual land use matters and is of a land conservation and protection nature.

Governmental roles and functions as ascribed by the ALI model are as follows:

1. The Federal Role

No specific recommendations are made as to alternative roles for the Federal government in this process. Its main function would remain as a grantor of funds for state land use planning, especially through the possible passage of the Jackson Bill.

2. The State's Role

As the organizer of a land management process, the state is assigned dominant functions of:

(T.D. No. 3, Articles 7 and 8)

- a. establishing a state land planning agency to develop standards with which local agencies must comply and the approval of projects of statewide concern. The director of the agency is to be appointed by the governor;
- b. determining local development regulations if local governmental units fail to do so;

- c. establishing a state land adjudicatory board to decide appeals for developments in critical areas or those of regional impact. Hearings are held and permission denied or granted; and
- d. adopting a state land development plan and an official map reserving land for future development. The purposes of the land development plan are to:
 - 1) initiate comprehensive studies, 2) recognize and state major land use problems, 3) set forth a desired sequence for a land development process, and 4) to provide a statement of programs.

3. The Regional Role

The model assigns a limited role to the regional level. Regional planning agencies are formulated as divisions of the state land planning agency. These agencies exist to recommend areas of critical concern or developments of regional impact to the state agency. Any regional plan prepared by the regional division remains the responsibility of the state land planning agency. (T.D. No. 3, Article 8, Commentary, p. 51)

4. The Local Role

ALI sees local governmental units as the primary administrators of local land development regulations. This is accomplished through the creation of a single local land development agency which is assigned the duties of:

(T.D. No. 2, Articles 2 and 3)

- a. deciding applications for special development permission and issuing development permits;

- b. exercising those functions formerly the responsibility of the board of appeals;
- c. responsibility of site planning and subdivision approval as formerly conducted by the planning commission; and
- d. issuing permits for development in critical areas.

In conclusion, an effective approach to land use planning as proposed by the ALI centers around regulatory activities. Administrative functions are well-detailed at the state and local levels. While the predominant amount of actual land use regulation exists at the local level, the major operating machinery and actual initiative rest with the state. Local competency is ensured by specification in the state enabling act of what must be included in a development plan and local development regulations are to be approved by the state land agency. As a further assurance that all land be under some regulatory constraint, the state agency is empowered to establish local development regulations in the event local units fail to do so. This is in addition to state control over developments of regional impact and the designation of critical areas.

IV. Meeting the Requirements of an Effective Land Use Program

Just how a state confronts the vast requirements of establishing an effective land management program is a matter of much dispute. Since government officials and professionals appear to be taking sides with either the ACIR or the ALI approach, it is useful to evaluate the capability of both models to provide a workable and cogent structure indispensable to a rational land planning and management system.

A significant amount of work concerning the evaluative process has been undertaken by Professor Clyde W. Forrest, Jr. at the University of Illinois. Of note is Professor Forrest's paper, "An Intergovernmental System for Effective Planning and Management -- A First Step," as presented to the Illinois Task Force on State Land Resource Management on July 25, 1973. In his paper Professor Forrest outlines six criteria for evaluating a land management program:

1. an adequate data system
2. broad base participation
3. decision-making authority
4. express goals and standards
5. mandatory procedures
6. adequate funding

Indeed, the above criteria are fundamental in constructing a proper foundation and executing any plan if it is to be viable and implementable. Yet, past performance indicates that programs have, unfortunately, often forgotten one or more of these

important elements. Therefore, it is valuable to examine the ability of the ACIR and ALI models in meeting these requirements.

A. An Adequate Data System

If the problems of land use are to be confronted in a systematic manner, it is imperative that an adequate data system be established to solidify the extent of problematic situations and in developing priorities for their solution. Traditionally, this function is better handled at the state level where supportive money and technical expertise lie. It is here that ALI places the data gathering function and requires it as an input to the formulation of a state development plan. However, aggregation of data at the state level may fail to distinguish serious land use problems endemic to only small geographic areas. Regional planning divisions created by the state land planning agency are entitled to formulate regional land use plans, which suggests a refinement of data analysis to at least the regional level.

The ACIR model concentrates data gathering responsibilities at the regional level and goes one step further in applying data gathering to the analysis of emerging problems of all matters related to regional planning. These results in turn form the basis of a region's program priorities. Thus it is necessary that UMJOs be staffed by technically competent and professional personnel, an achievement directly dependent upon financial support. Unfortunately, ACIR's funding system is not guaranteed which may potentially limit technical expertise.

B. Broad Base Participation

The criteria of broad base participation evaluates the ability of citizens, various governmental levels, and competing local governmental units to take an active part in the decisions which will eventually affect them. As a regional organization of state and local officials, the UMJO comes close to representing affected levels of interest. In an attempt to determine local attitudes toward regional councils, the ACIR and International City Managers Association conducted a survey of mayors and county officials. Results indicate that local officials regard such councils with a fear of red tape, as a threat to local autonomy, and as a roadblock to the planning and delivery of services which would be better performed at the local level. Yet, it should also be mentioned that this "fear" often exists in local perception of state government. This is particularly true in Illinois. Nevertheless, where such conditions exist, the UMJO concept must take definite steps in mitigating poor local reception if complete local participation is to be achieved. Local officials are the key policy makers, and their organization at a regional level gives rise to a democratic method for dealing with regional land use problems (eg. air pollution, transportation, water quality, etc.).

The Model Land Development Code, on the other hand, practically bypasses the regional concept, thereby hindering a discretionary solution of problems in terms of a region's particular needs. There are no provisions in the Code for managing inter-local conflicts. Rather, the model presupposes that certain land use

problems are beyond local concern and requires state approval of local development regulations in these areas. Rejecting the independent regional unit, ACIR recommends that all planning for areas larger than a single local jurisdiction be undertaken by the state or regional division of a state land planning agency. Again, the state bureaucracy may be too distant to handle regional problems with the high degree of sensitivity necessary.

C. Decision-making Authority

Solution of land use problems requires that decisions be made in a coordinated manner, that they are responsive in a democratic fashion, and are preferably outside political constraints. In effect, this would involve the coordination of the legislative, executive, and judicial branches of government. The ALI model is best suited to this requirement, providing for legislative policy determination, administrative performance, and judicial redress through a series of hearings and appeal boards. It can, however, be criticized for complicating redress procedures through the addition of an adjudicatory board rather than direct entrance into the judicial process. The levels of decision-making on the whole are well-distributed and firmly defined throughout the model.

Actual decision-making authority is diffused throughout all governmental levels in the ACIR model. Federal funding for areawide programs largely influences the type of problems addressed. At the state level, the governor maintains veto power over an UMJO's actions. Although local units must sub-

mit both their comprehensive plans and major capital facilities of regional influence to UMJO boards, there is no mandate that local units must comply with the regional development plan. In fact, an UMJO serves strictly as an advisory agency in all matters except control over special districts. Subsequently, decisions may not always be coordinated. Finally, in spite of ACIR's democratic approach, dependency on elected local officials places decision-making directly within the political process. Such may result in bland decision-making as officials strive to avoid harm to subunits.

D. Express Goals and Standards

Both models express a need for a set of expressed goals and standards, yet the ALI approach is more explicit in its designation of the need for an adopted set of goals and objectives by the legislative and executive branches to guide decision-making authority. The adoption of policies and goals in the form of a state land development plan or local development plan each include legislative review and guide administrative land management activities. The setting of goals at various levels allows for program fulfillment at differing intensities and under a common framework.

In a significantly different manner, ACIR proposes the establishment of a common framework for program accomplishment. It is at the regional level where the adoption of regional plans

and policies by UMJO units evolves. The scope of these goals is broader than those of ALI and covers all areawide Federal programs in addition to the adoption of a comprehensive planning process. Local and state governments are directed, but not required, to recognize those policies adopted by the UMJO as a guide for their programming, planning, and implementing activities. If compliance with regional goals were to be mandatory, the advocated integration of Federal/state/local activities becomes more complete.

E. Mandatory Procedures

The incorporation of mandatory procedures in the evaluation process measures the consistency and clarity of program operations. These procedures should be adopted by both the legislative and executive branches of government and imposed upon the decision-making process. It is important that full recognition and understanding exist of the responsibilities, scope, and opportunities for each participating level and agency of government. Finally, as pointed out by Professor Forrest, the principal need for mandatory procedures is to assure full opportunity for citizen participation.

The Model Land Development Code is clear and consistent at all levels of authority. For example, local hearings are to give standing to state interests although the state is not to sit in as a member of the board. Similarly, the appeal procedure is well-formulated as is decision-making authority. In short, once the Code is adopted, each actor can easily determine

his role.

F. Adequate Funding

All too often the success of a program is highly correlated with its financial prowess. Moreover, an adequate source of funds must be accompanied by a guarantee of fund continuance if long-range objectives are to be reached. Although ACIR improved upon its funding system in the semi-final draft of their Statewide Substate Districting Act, the model is still noticeably weak. Funds are received from three sources -- Federal areawide program funding, state assistance, and local contributions -- and none of these is assured. Each UMJC adopts an annual budget and local units make financial contributions in accordance with an established formula. State financial support is to equal $33 \frac{1}{3}$ - 50% of local contributions. This places an UMJC in a position of dependency on local officials and subsequently vulnerability to pressure. Conversely, ALI's approach would presumably require an assured annual budget from state and local governments for funding their respective development agencies. Program implementation can, therefore, proceed without delays resulting from a lack of funds or in fear of "biting the hand that feeds it."

V. An Alternative Approach to the Implementation of a State Land Use Planning Program

A. Introduction

Drawing upon the advantages of each of the two models, the following section proposes a third procedural model. As a "hybrid", the alternative model emphasizes the organizational integration of the ACIR model in bringing into focus a common ground not only for solving land use problems, but also an arena for handling all levels of intergovernmental conflict. Within this organizational context is implanted the more detailed and actual program of land management evidenced in the ALI model. Strong authoritative functions allocated to the state by the ALI model are reassigned to regional organizations in the form of less potent powers of review and policy directives. As in the ACIR model, regional organization boards are composed of local elected officials and state representatives, the only requirement for board composition being that at least 60% of the board's members are local. Finally, the alternative model incorporates several unique elements of its own, making the term "hybrid" somewhat erroneous at times.

The majority of our most serious problems require that policies be instituted at the regional level if effective results are to be realized. The inability of local units to rationally manage land use problems of a macro-scale is well documented and warrents no further discussion here. Briefly, those problematic areas for which the regional approach is most beneficial are:

1. those activities which by their very nature transcend local jurisdictional boundaries and

in which people of a metropolitan area are most often involved in large numbers (eg. highway planning, mass transit, regional employment activity, etc.);

2. those activities where the negative or non-activity of one local governmental jurisdiction may undercut the actions of another jurisdiction (eg. air pollution, large-scale development, social and economic inequality, etc); and
3. those activities where diseconomies of scale require intergovernmental planning and operation (eg. water supplies, sanitary treatment and disposal).

Although the scope of the problems listed above exceeds the boundaries of local government, it is not implied that local governments are ill-equipped to deal with complex land use problems. Rather, the emphasis here is that there remain many problems which simply cannot be approached on a geographically piecemeal basis. Parallelling the ACIR approach, regional organizations function to maximize local governmental ability in attaining cooperative solutions. Thus, in place of competing local units, the model seeks the incipience of local readiness to support regional policies in their jurisdictions which they believe to be the most effective.

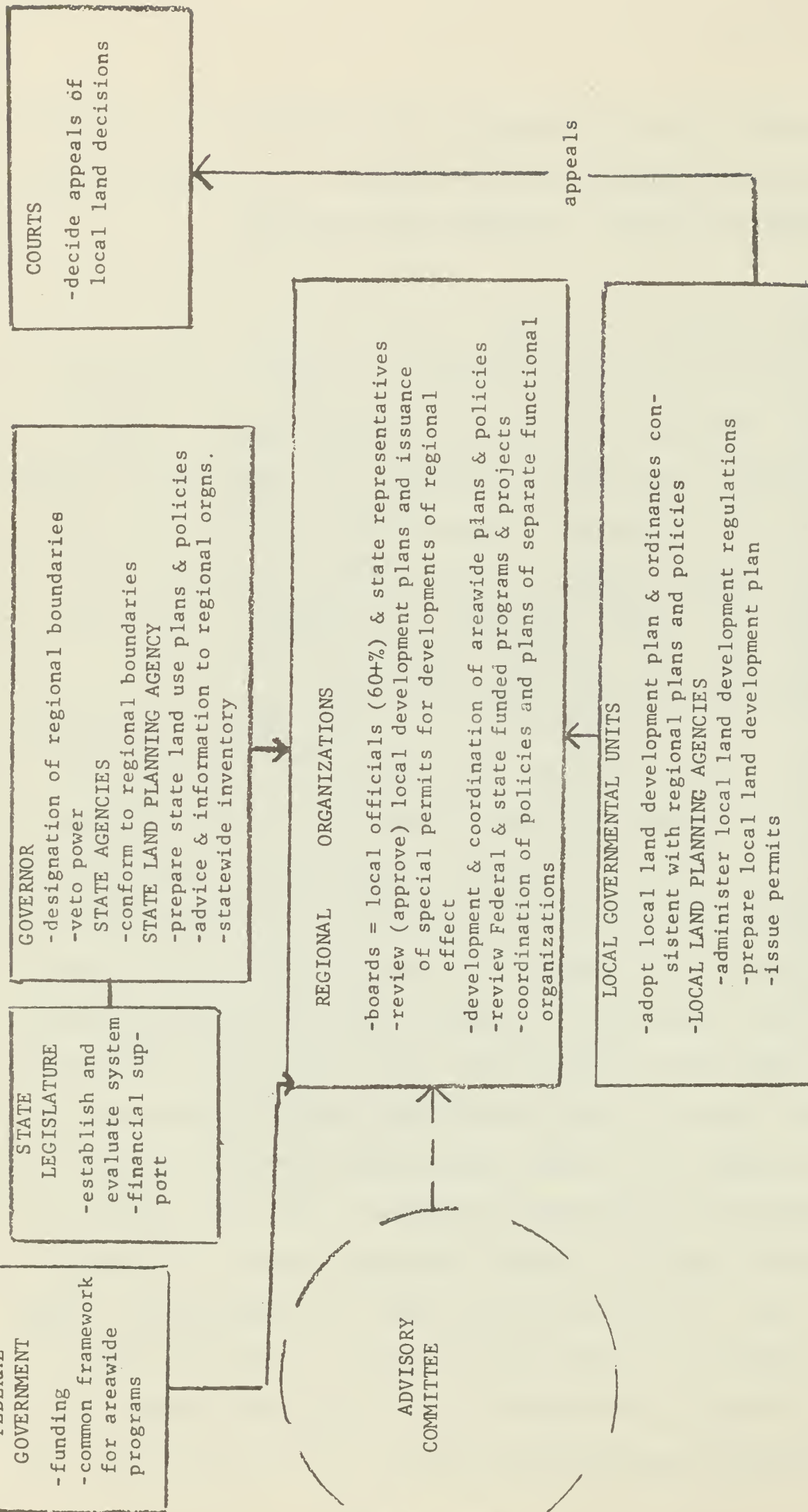
The alternative model builds upon local government responsibility in the actual administration of land use controls and revolves around the region as the prime integrative force

in policy formulation. A schematic presentation of structural organization and responsibility assignment is presented on the following page as a useful overview of the model.

B. Local Government

Local governments are to maintain a majority of control over land use decisions through the construction of a local land development plan, plan enforcement, and development permit issuance. Responsibility of these functions should fall to a single administrative agency. The ALI model is most useful in this regard and brings together the disparate controls of current local land use policies. The agency assumes all functions as formerly exercised by the local board of appeals, the functions of site planning and subdivision approval from the planning commission, and those functions of the building inspector. In effect, the construct practically covers the entire regulatory field under the guidance of a local land development plan. In adopting development regulations, local governments are to adhere to regional plans and policies, and development regulations, plans, and major projects must be submitted to the regional organization for review and comment.

Local agencies also issue special development permits for those projects designated by regional organizations as developments of regional effect. However, notice of intent of issuance must be sent to the regional organization for review and comment prior to formal permit issuance. It is preferable that a time limitation be placed on the process to avoid unnecessary delay in project initiation.



An Alternative Model for State Land Use Planning

C. Regional Organizations

As multijurisdictional and multifunctional districts, regional organizations are designed to coordinate planning and policy development for a multitude of functional areas and land use issues. The regional organization board is to adopt a regional development plan and development policies consistent with predetermined regional priorities. It is the intent of the model that those land use problems to be addressed remain firmly at the discretion of the regional board. In this manner, local officials of a region can approach their most urgent problems in a systematic fashion. For example, the Northeastern Illinois area is experiencing a serious need for low and moderate income housing, and a regional approach to housing problems is well suited in encountering economic/social/racial disparities on a large scale. At the other end of the State, the economically depressed region of Greater Egypt must decide whether to develop its area for coal mining or agricultural purposes. Both regions could then adopt regional policy guidelines in achieving the alleviation of their respective problems.

Composition of regional organization boards is indeed a sensitive element of the model. The ACIR model allocates at least 60% of the membership to local elected officials with the remainder of the seats being filled by state representatives. However, the ACIR model further requires that each unit of local government has one representative, thereby giving an undue advantage to smaller governmental units. ACIR attempts to remedy this situation by prescribing a dual system of voting

procedures based on population weights for certain issues. To avoid the unnecessary confusion of adopting new voting weights for every issue, it would appear more logical to allocate each local unit a proportional number of representatives as determined by its representation of the area's population. This can be rebalanced every one or two years as part of the total evaluation routine.

As its primary responsibilities, regional organization boards:

- a. review local land development plans and regulations as consistent with regional plans and objectives;
- b. establish regional priorities (public hearings);
- c. review, comment, and make recommendations on the issuance of special development permits by local governments for projects of regional effect;
- d. review, comment, and make recommendations on all Federal and state funded programs and projects having an impact in the region;
- e. serve as the A-95 review agency;
- f. adopt a regional land development plan and implementing policies (public hearings);
- g. assist in interlocal contracting when requested;
- h. prepare an annual budget;
- i. elect a chairman and vice-chairman and appoint the director of the technical staff; and
- j. prepare and furnish to all member units an annual report.

The model assumes a rather broad definition of developments of regional effect. Briefly, a development of regional effect is any development activity, either public or private, having an impact on more than one local jurisdiction. Responsibility to delineate which development is considered as having a regional effect falls to the regional board. This would include an area containing or having a significant impact upon historical, natural, or environmental resources of regional importance as well as large-scale development activity. The board shall designate developments of regional effect according to the needs of the region, the severity of the problem, and established regional priorities. However, it is strongly suggested that the following problems be considered:

- development activity generating significant amounts of air, water, or land pollution
- conservation of historical, recreational, and environmentally endangered areas
- large-scale development of a designated magnitude
- siting of new communities
- alleviation of social and racial disparities in housing choice
- development having an effect on certain public facilities
- unorganized development patterns and urban sprawl

The board's right arm in carrying out these responsibilities is its technical staff, whose major responsibility is formulating the regional land development plan and policies of implementation. The staff is further required to undertake the collection and analysis of social and economic data, to prepare studies of the region's natural, economic, and social resources, and to

continually research and issue special reports on emerging land use problems in the district. Technical assistance to local units in the development of land regulations is available upon request.

As outlined, a regional organization's primary lever in achieving program implementation is the mandatory review of local land planning activities. This lever can become quite effective since the regional agency also serves as the A-95 review agency for Federal funding to local units. The model can be made stronger, however, by granting regional boards approval over local land development plans and regulations and over the issuance of special development permits. This places an extra burden on the regional boards and requires public hearings and related procedures of due process, but it also ensures local competency in land management activities.

It is further suggested that an advisory committee be instituted at the regional level. Actual functions of the committee are flexible. The dashed line in the schematic presentation indicates that the committee is temporary and may be called into existence at any point in time to proffer advice on particular land use issues. Perhaps the first duty assigned to the committee could be the development of a program to enhance public participation in the development of regional goals and in the land use planning process as a whole. The committee might also investigate public educational programs on environmental problems. Committee members would be appointed by the regional board and may be leaders of citizen organizations, academicians, etc.

D. State Government

The model's emphasis on the regional approach places the state in a less dominant role than is normally the case for those states already administering a state land use program. Due to the strong tradition of local rule in Illinois and the disparity of both regional perceptions and extent of particular land use problems, the model stands as a workable approach for the State. The state government, nevertheless, does perform the very vital functions of program initiation, financial support, technical assistance, and program evaluation.

The state legislature acts to enact flexible enabling legislation for regional organizations, to establish a state land use planning program, and also to continually evaluate all aspects of the land use planning process. Most important is the legislature's responsibility in guaranteeing financial support to regional organizations.

A key element in the program is the governor's veto power over regional organizations. Such power must be used with discretion and is to be applied only after thorough research and investigation. The governor is further empowered to designate the boundaries of regional organizations and to appoint state representatives to regional boards.

In response to the fragmented and often conflicting activities of isolated state departments, a single state department, or a division of an appropriate department, should

coordinate all state departmental activities relating to land use. Responsibilities of this department should also include:

- a. formulation of an overall state land use plan for environmental preservation and resource conservation;
- b. assisting regional organization boards in adopting bylaws and regional land use plans and policies;
- c. investigating and assisting in the resolution of inter-regional conflict;
- d. rendering technical assistance to regional organizations or local units upon request; and
- e. establishing a statewide data information and environmental monitoring system to assess the implications of present growth and development trends on the environment.

The state land planning agency might also undertake research into all aspects of land use planning. Possible topics might include a program of funding to areas of critical planning need or the preferential taxing of open space lands.

As current Illinois state agency areawide service deliveries conform to no overall system of boundaries and result in a multitude of overlapping and confusion, the model assumes a degree of reorganization within state departments. Each department is to conform to regional organization boundaries in the administration and delivery of areawide services, unless it can prove that the nature of its services warrant conformance

to regional organization boundaries infeasible. In addition, state agencies are to respect regional priorities.

E. Federal Government

The Federal government retains its role as a provider of funds, both in furnishing funds to regional organizations for areawide programs and also to state governments for the establishment and maintenance of a state land use planning program required in the Jackson Bill. Through financial incentives the Federal government plays one of the strongest roles in program initiation. First, the availability of funds can prompt states presently not involved in land use planning to undertake a program. Secondly, Federal sponsorship of certain areawide programs influences a regional organization to institute a planning program in one functional area for which funds are available, consequently often placing an emphasis on one priority rather than another of greater need.

At the administrative level, the Federal government must put forth a common framework for areawide funding if the proliferation of uncoordinated regional planning agencies is to discontinue. The ACIR model speaks well to this issue and calls for legislation to revamp and consolidate all Federally funded areawide planning programs to focus on multijurisdictional organizations as the "basic policy-developing and/or implementing institution."

In conclusion, the alternative model seeks a delicate balance to the complexities of land management. First, the model aims toward a balanced growth policy responsive to the needs of a specific region. This is in contrast to the ACIR and ALI models which incorporate differing attitudes on growth policy. Substate regionalism dwells on development priorities as determined by representative local officials. At the other extreme, the Model Land Development Code stresses the need for conservation and preservation of the state's land and its language concerning the designation of "critical areas" or "developments of regional impact" mirrors an anxiety to protect our environment from the rampage of unbridled development. Nonetheless, the state must take a discretionary approach to balancing the need for land conservation and development. The regional disparity of land use problems cannot be handled by a state mandated set of development regulations applicable to all localities. Rather, a set of general land use policies must be consistent with regional needs. The integration of Federal/state/regional/local actions cannot stress either conservation or development.

Secondly, the alternative model provides a variety of levers for plan implementation. Again this is in contrast to the ACIR and ALI models which center around either mandatory review or regulatory powers. These two levers can be effectively balanced. Furthermore, other levers such as taxation powers and public expenditures ought to be available.

Lastly, a land management system must be supported by a comprehensive planning process. The improper use of land

exists as part of the overall crisis encompassing the economic and social conditions of the entire society. These problems cannot be dealt with separately.

Bibliography

Advisory Commission on Intergovernmental Relations, "Recommendations for Substate Regionalism in the Federal System", (unpublished), adopted June 22-23, 1973.

Advisory Commission on Intergovernmental Relations, Regional Governance: Promise and Performance, Volume two-Case Studies, U. S. Government Printing Office, Washington, D. C., May 1972.

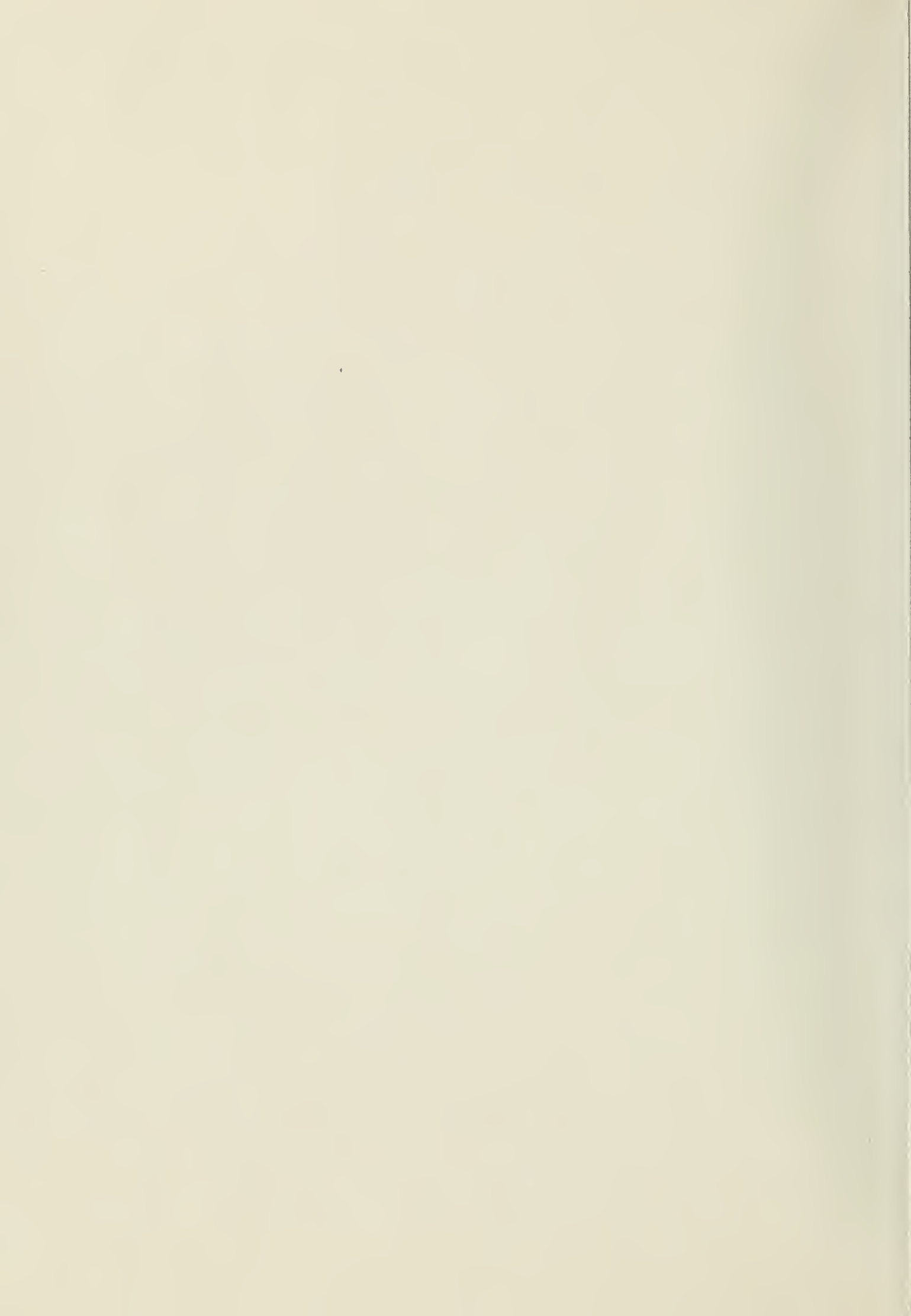
American Law Institute, A Model Land Development Code, tentative draft no. 3, (unpublished), April 22, 1971.

Forrest, Clyde, "An Intergovernmental System for Effective Planning and Management - A First Step, unpublished paper presented to Illinois Task Force on State Land Resource Management, July 25, 1973.

Heeter, David, Toward a More Effective Land Use Guidance System: A Summary and Analysis of Five Major Reports, American Society of Planning Officials, Chicago, Illinois, 1969.

Advisory Commission on Intergovernmental Recommendations, "Statewide Substate Districting Act", (Semi-Final Draft, unadopted), January 1974.

American Law Institute tentative draft no. 2, April 24, 1970.







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